



Guidance on Preparing Personal Information Collection Statement and Privacy Policy Statement

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Note: The contents herein are for general reference only. It does not provide an exhaustive guide to the application of the Personal Data (Privacy) Ordinance (“the Ordinance”). For a complete and definitive statement of law, direct reference should be made to the Ordinance itself. The Privacy Commissioner for Personal Data (“the Commissioner”) makes no express or implied warranties of accuracy or fitness for a particular purpose or use with respect to the above information. The contents herein will not affect the exercise of the functions and power conferred to the Commissioner under the Ordinance.



Guidance on Preparing Personal Information Collection Statement and Privacy Policy Statement

The guidance note deals with the following:

- Legal requirements concerning PICS and PPS
- What are PICS and PPS
- Details required in PICS and PPS
- Recommended good practices when preparing PICS and PPS



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“Personal Data” means *any data* -

- relating directly or indirectly to a living individual;
- from which it is practicable for the identity of the individual to be directly or indirectly ascertained; and
- in a form in which “access to” or “processing of” the data is practicable.



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Data Protection Principles (DPPs):

- DPP1 – Purpose and manner of collection
- DPP2 - Accuracy and duration of retention
- DPP3 – Use of personal data
- DPP4 – Security of personal data
- DPP5 – Information to be generally available
- DPP6 – Access to personal data



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Legal requirements under DPP1(3)

Inform the data subject of the following immediately or in advance:

- the purposes of data collection;
- the classes of persons to whom the data may be transferred;
- whether it is obligatory or voluntary for the data subject to supply the data;
- where it is obligatory for the data subject to supply the data, the consequences for him if he fails to supply the data; and
- the name or job title and address to which access and correction requests of personal data may be made.



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What is PICS:

- Complying with DPP1(3)
- To be provided to a data subject on or before collecting personal data directly from that data subjects
- Core elements specified in DPP1(3)



advisable to provide written PICS

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Details required in PICS:

- Statement of purpose



should not be too vague and too wide in scope

Examples

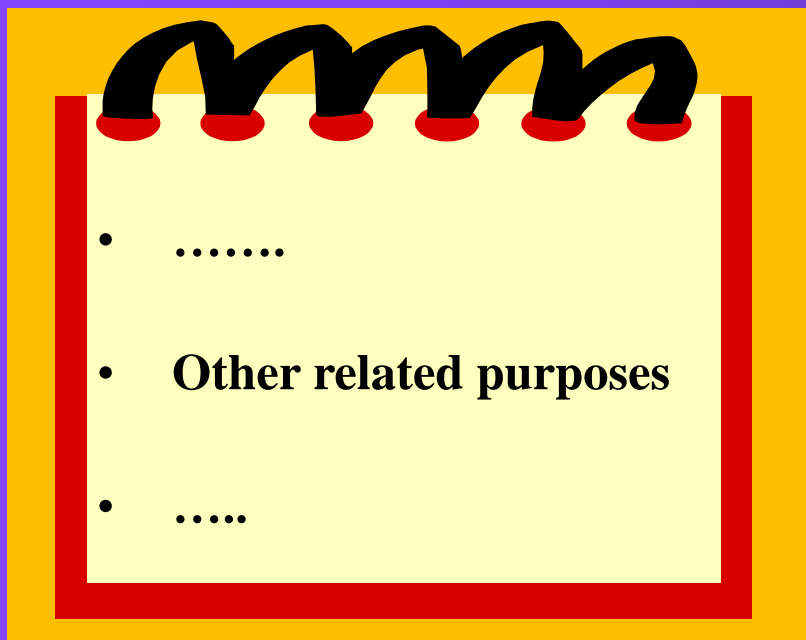
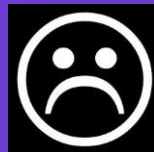
“The information collected from you will be used for the purpose of processing your purchase orders and managing your account with us.”

“The information collected by means of cookies on this website about you will be used only for compiling aggregate statistics on how visitors browse the website. Such statistics are collected for the purpose of managing and improving the design of the website.”



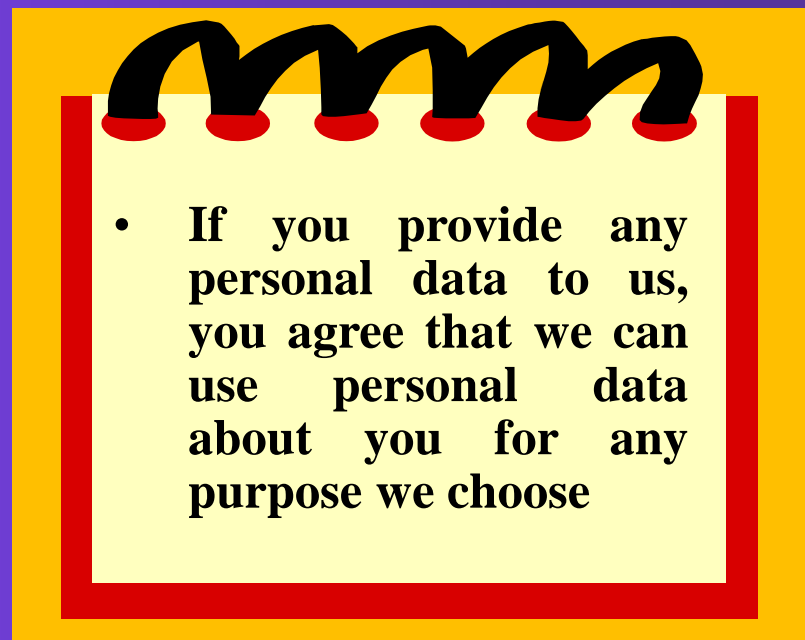
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ill-defined purposes of use:



A graphic of a spiral-bound notebook with a yellow cover and a red border. The spiral binding is black with red rings. The page is white and contains a bulleted list:

-
- **Other related purposes**
-



A graphic of a spiral-bound notebook with a yellow cover and a red border. The spiral binding is black with red rings. The page is white and contains a single bullet point:

- **If you provide any personal data to us, you agree that we can use personal data about you for any purpose we choose**

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Details required in PICS:

- Statement as to whether it is obligatory or voluntary for the individual to supply his personal data

Examples

“Please note that it is mandatory for you to provide personal data marked with asterisks. In the event that you do not provide such personal data, we may not be able to provide you with our products or services.”

Where cookies are used on websites to collect information about visitors: “Most web browsers are initially set up to accept cookies. You can choose to ‘not accept’ cookies by changing the settings but if you do so you may find that certain features on the website, including online banking, do not work properly.”



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Details required in PICS:

- Statement of possible transferees

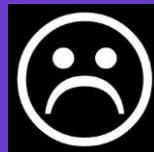
Examples


- ❑ *The data you supplied in this insurance application may be transferred to loss adjusters for the purpose of processing any claims on your policy;*
- ❑ *Administrative Appeal number 51-2011: Transfer of personal data to debt collection agency for recovery*
- ❑ *Octopus Rewards Programme in 2010 - A reasonable degree of certainty as to who could have use of the data*




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ill-defined data transferees:



- 
- any other persons under a duty of confidentiality to our company

- 
- any company within our Group, our respective subsidiaries and any company in which the same has an interest

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Details required in PICS:

- Statement of rights of access and correction and contact detail
- Notice of contact person for requesting access or correction

Example

“You have the right to request access to and correction of information held by us about you. If you wish to access or correct your personal data, please contact our data protection officer at ‘1/F, No.1 Main Road, Hong Kong’ or dpo@company.com.”



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Details required in PICS:

- Direct marketing
 - prescribed information and response channel
 - notification should be easily understandable, and if in writing, easily readable



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Use of Personal Data in Direct Marketing	Provide Personal Data to another person for Use in Direct Marketing
1. The data user intends to use the personal data of the data subject for direct marketing;	1. The data user intends to provide the personal data of the data subject to another person for use by that person in direct marketing;
2. The data user may not so use the data unless the data user has received the data subject's consent to the intended use;	2. The data user may not so provide the data unless it has received the data subject's written consent to the intended provision;
3. The kinds of personal data to be used (e.g. name, email address, telephone number);	3. The provision of the data is for gain (if it is to be so provided);
4. The classes of products/services/facilities in relation to which the data is to be used;	4. The kinds of personal data to be provided (e.g. name, email address, telephone number);
5. The response channel	5. The classes of persons to which the data is to be provided;
	6. The classes of products/services/facilities in relation to which the data is to be used; and
	7. The response channel

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Recommended good practices:

- The language and presentation should be user-friendly
- Specific PICS to be used for specific collection purposes
- Statement of security measures
- Link to PPS



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Legal requirements under DPP5

Data users have to provide

- policies and practices in relation to personal data;
- the kind of personal data held;
- the main purposes for which personal data is used



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What is PPS:



advisable to provide written PPS

- Complying with DPP5
- Should be made available AT ALL TIMES
- Wider scope which may includes data retention policy, data security measures, data breach handling and use of special tools



include technical means such as “cookies” in PPS when they are used

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Details required in PPS:

- Statement of policy

Example

“We pledge to comply with the requirements of the Personal Data (Privacy) Ordinance. In doing so, we will ensure compliance by our staff with the strictest standards of security and confidentiality.”



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Details required in PPS:

- Statement of practices

Examples

“Your personal details, job particulars, salary and benefits, appraisal and disciplinary records collected and held by us will be used for the purpose of human resource management.”

“We will not provide your personal data to third parties for direct marketing or other unrelated purposes without your consent.”



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Mobile apps:

- PCPD carried out a survey of 60 mobile apps in May 2013;
- Inadequate transparency in Privacy Policy
- Only 60% of the apps provide PPS but all were provided in developers' websites
- PPS was provided only in English but the app was in Chinese



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Recommended good practices:

- Not advisable to collect personal data from minors without prior consent of parents
- Give information about retention of personal data
- Explain how to handle sensitive personal data, e.g. health, finance, location, etc.
- Disclosure or sharing of personal data should be stated in the PPS



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Recommended good practices:

- State protection measures to ensure the security and confidentiality of the personal data collected
- State clearly what personal data will be transferred to service providers and how the personal data will be protected
- Make it known through a PPS if no personal data is collected, e.g. use of CCTV



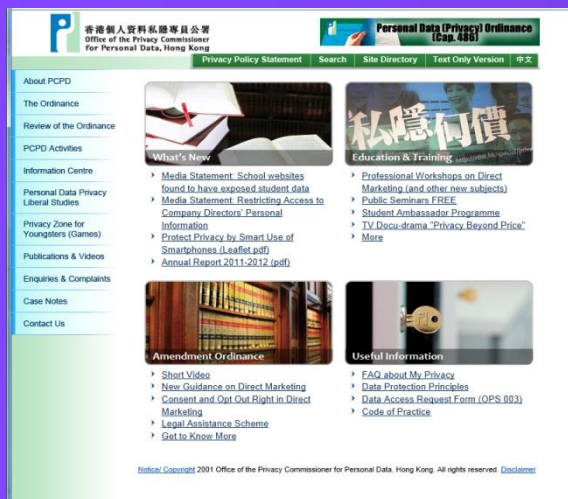
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Recommended good practices:

- State the policy on handling data subject's requests to access and to correct their personal data
- Provide contact details for enquiries
- The language and presentation should be user-friendly
- Present the information with a layered approach



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